IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.139 OF 2006

In

SUIT NO.3299 OF 2003

Haji Ismail Haji Habib & Ors. : Plaintiffs

V/s.

Yusuf Saleh Mohammad Jafrani & Ors. : Defendants

And

The Court Receiver,

High Court, Bombay--400 032. : Respondent

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Ms J. Sarkhot i/b. Mr.R.V.Govilkar for the plaintiffs.

None present for the defendants.

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CORAM : S.A.BOBDE, J.

DATE : FEBRUARY 2, 2007.

P.C.

1. This Notice of Motion is taken out by the plaintiff-trust for discharging the Court Receiver in respect of room no.20 at 33, Pakmodia Street, Mumbai--400 003, and for a direction that possession of that room be handed over to the plaintiffs.

2. The plaintiff no.1 is a charitable trust and they run

the Musafirkhana which is meant for shelter to pilgrims going for Haj.

3. As regards room no.20 which is in question, it was initially occupied by Mr.Choudhari Mohhammed Khan. It was then occupied by Mr.Choudhari who had to be impleaded as the defendant no.21. On 24.12.1999 this Court directed the Receiver to take physical possession of the room along with other rooms. The Receiver took possession on 23.7.2004 and the room is in possession of the Receiver since then. Apparently, the room was handed over by the Receiver to Mr.Amjad Choudhari on payment of royalty. He defaulted in payment of royalty and appears to have handed over possession to a person who claims to be his father. The Receiver took possession of the room on a second time from that person. Admittedly, now the room is in the possession of the Receiver as stated by the representative of the Court Receiver.

4. Having regard to the purpose of the accommodation and the object of the Trust, there is no reason why the possession of the room should not be handed over to the plaintiff-trust. Hence, the Notice of Motion is hereby allowed in terms of prayer clauses (a) and (b). Order Accordingly.

S.A. BOBDE, J.